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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,045	03/22/2004	Ivan J. Naranjo	035695-003	2733

7590

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Robert E. Krebs  
Thelen Reid & Priest LLP  
P.O. Box 640640  
San Jose, CA 95164-0640

EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

10/807,045

Applicant(s)

NARANJO ET AL.

Examiner

Joseph M. Pelham

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6-15, 24 and 27-29 is/are rejected.
- 7) ☒ Claim(s) 25, 26, 30 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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The Examiner acknowledges Applicant's submission of the amendment filed 6/22/05. Claims 1-29 remain pending; claims 16-23 are withdrawn. Further search and review has determined new grounds for rejection, which follow below.

***Claim Rejections - 35 USC § 112***

Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

"[T]he jack screw" lacks antecedent basis, rendering the claim, which evidently should depend from claim 25 rather than claim 24, indefinite.

***Claim Rejections - 35 USC § 102***

Claims 6-13 and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 5765471 (US'471).

Referring to Figs. 1-4, and col. 3, lines 30-49, US'471 discloses first and second fixed radiant heating members 28 coupled to "support" housing 12, first and second "rotating" trays 16 connected to the same "support" housing through vertical pivot tube 30, which inherently comprises a cylindrical hole, and are "coupled" to the pivot tube by member 14, such that the trays are heated from above and below, and a handle 32 connected to the trays, as recited.

Claims 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 3880064 (US'064).

Referring to Figs. 1-3 and col. 4, lines 4-11, US'064 discloses a method for heating the top and bottom of a tortilla by conduction, utilizing heated plates 19 and 20, as claimed.

Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 5570625 (US'625).

US'625 discloses a support 26 to which is coupled a plurality of heating plates 14, with means to manually separate plates so that food items can be placed and compressed therebetween. See especially col. 15, line 56, through col. 16, line 3, where the device of US'625 is disclosed to accommodate the "cross-sectional dimensions of any specific food product unit."

***Allowable Subject Matter***

Claims 25, 30, and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Claim 26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 1-5 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose or suggest a tortilla/food heater including, in combination with the other recited limitations, a compression grill, or raising and lowering the heating plates by means of a jack screw.

### ***Response to Arguments***

Applicant's arguments with respect to claims 6-15 and 27-29 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8/29/05 

JOSEPH PELHAM  
PRIMARY EXAMINER